

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

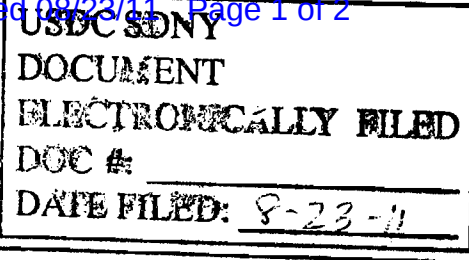
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RICHARD MERINO et al.,

Plaintiffs,

-v-

BEVERAGE PLUS AMERICA CORP. et al.,

Defendants.
-----X



10 Civ. 0706 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

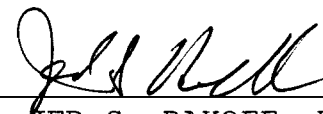
On April 11, 2011, the Honorable Robert L. Ellis, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that the Court: (1) grant plaintiffs' motion for summary judgment against defendants Yun S. Cho and Yun C. Cho (the "Individual Defendants") on the basis of piercing the corporate veil and successor liability, which would allow them to hold the Individual Defendants liable for the default judgments already imposed upon the Corporate Defendants; and (2) and grant plaintiffs' motion for class certification.¹ Objections to the Report and Recommendation, if any, were due on April 29, 2011. On May 4, 2011, the Individual Defendants, proceeding pro se, filed objections to the Report and Recommendation. On May 17, 2011, plaintiffs filed a response to the objections in which they argued,

¹ Specifically, Judge Ellis recommends that the Court certify the two classes proposed by the plaintiffs - a damages class and an injunctive class. See 04/11/11 R&R at 2.

inter alia, that the Court should treat the Individual Defendants' objections as untimely and apply a clear error standard of review.

Notwithstanding the Individual Defendants' late submission of their objections, the Court has considered the entire record de novo. Having done so, the Court finds itself in agreement with Magistrate Judge Ellis's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court hereby grants plaintiffs' motions for summary judgment and class certification. Pursuant to the Court's March 7, 2011 referral order, further proceedings in this matter will proceed before Judge Ellis. The Clerk of the Court is directed to close item numbers 65, 68, 73, and 74 on the docket of this case.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
August 22, 2011